

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND ANNIN,

No. C 06-07273 SBA (PR)

Petitioner,

**ORDER LIFTING STAY AND
DIRECTING RESPONDENT TO SHOW
CAUSE WHY THE WRIT SHOULD NOT
BE GRANTED**

v.

GARY SWARTHOUT, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On March 30, 2009, the Court issued an Order granting Petitioner's request for a stay of proceedings while he returned to state court to exhaust his administrative remedies. On April 30, 2010, Petitioner informed the Court that his state proceedings had concluded in his quarterly progress report, which the Court construes as his motion to lift the stay. However, he did not amend the stayed petition to add the newly-exhausted claims. Therefore, in an Order dated May 10, 2010, the Court directed Petitioner to file an amended petition in this Court which incorporates the newly-exhausted claims he intends to raise in federal court. On June 17, 2010, Petitioner filed a first amended habeas petition containing his exhausted claims.

Before the Court are Petitioner's motion to lift the stay and his implied motion for leave to file his first amended petition.

1 Good cause appearing, Petitioner's motion to lift the stay is GRANTED. Petitioner is also
2 GRANTED leave to file his first amended petition. The Clerk of the Court is directed to mark
3 Petitioner's first amended petition as filed on June 17, 2010, the date it was received.

4 The Clerk of the Court shall REOPEN this case and serve a copy of this Order and the first
5 amended petition and all attachments thereto upon Respondent and Respondent's attorney, the
6 Attorney General of the State of California. The Clerk shall also serve a copy of this Order on
7 Petitioner at his most current address.

8 Respondent shall file with this Court and serve upon Petitioner, within **sixty (60) days** of the
9 issuance of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing
10 Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent
11 shall file with the answer a copy of all portions of the state trial record that have been transcribed
12 previously and that are relevant to a determination of the issues presented by the petition.

13 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the
14 Court and serving it on Respondent within **thirty (30) days** of his receipt of the answer. Otherwise,
15 the petition will be deemed submitted and ready for decision thirty days after the date Petitioner is
16 served with Respondent's answer. Petitioner is reminded that all communications with the Court,
17 whether by way of formal legal motions or informal letters, must be served on Respondent by
18 mailing a true copy of the document to Respondent's counsel.

19 Extensions of time are not favored, though reasonable extensions will be granted. Any
20 motion for an extension of time must be filed no later than **seven (7) days** prior to the deadline
21 sought to be extended.

22 IT IS SO ORDERED.

23 DATED: 5/24/11


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 RAYMOND ANNIN,
5
6 Plaintiff,

Case Number: CV06-07273 SBA

7 v.

CERTIFICATE OF SERVICE

8 BOB HOREL et al,
9
10 Defendant.

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
12 Court, Northern District of California.

13 That on May 25, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
16 located in the Clerk's office.

17 Raymond Annin E-04987
18 Correctional Training Facility
19 P.O. Box 686
20 Soledad, CA 93960-0686

21 Dated: May 25, 2011

22 Richard W. Wieking, Clerk
23 By: LISA R CLARK, Deputy Clerk
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United States District Court
For the Northern District of California